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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,099	11/17/2003	Emil Vulcu	136-03	3268

27569 7590 05/04/2005

PAUL AND PAUL  
2900 TWO THOUSAND MARKET STREET  
PHILADELPHIA, PA 19103

EXAMINER

GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

2P

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/715,099	VULCU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Bryon P. Gehman	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 7-11 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 7-11 and 15-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/23/04, 2/11/05</u> | 6) <input type="checkbox"/> Other: _____  |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Willis (3,113,579). Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Thaler (4,700,729). Each discloses a storage container (10; 10; respectively) for receiving and storing a contact lens comprising an upper chamber (20; inside 12) having an opening (12; at 14) through which the contact lens can be placed into the chamber, the upper chamber having a bottom portion having at least one passageway (26; 32) permitting liquid to flow out of the upper chamber, a contact lens supporting device (27; 20-27) on the bottom portion of the upper chamber, the device maintaining the contact lens on the device while the contact lens is stored in the container, and a lower chamber (18; inside 18) for containing liquid and having a deformable portion which allows liquid to flow through the passageways in the bottom portion of the upper chamber to the lower chamber such that the contact lens supporting device is free of liquid.

3. Claims 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobler (3,129,971). Disclosed is an inserting and handling device (11) comprising a hollow body having an opening and a hollow portion extending to a first end of the hollow body, and a deformable portion (12) which discharges air from the hollow body opening and

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upon application of a lesser force permits a vacuum to be formed in the hollow portion, a suction cup (14) located at the first end of the hollow body which leads to the hollow body opening and the hollow portion of the hollow body, and a vacuum bleed hole (18) on the hollow body which is in communication with the hollow portion, the vacuum bleed hole located such that a user holding the device can seal the vacuum bleed hole on the hollow body when the hollow body is deformed and a vacuum is formed permitting the suction cup to grasp an object and release the object when the vacuum bleed hole is unsealed.

As to claim 8, the device is used with a contact lens.

As to claim 9, the grip portion of the exterior of the hollow body is inherently textured such that grasping is facilitated.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cointment (4,238,134) in view of Kobler (3,129,971). Cointment discloses an inserting and handling device comprising a hollow body having an opening and a hollow portion (18) extending to a first end of the hollow body, and a deformable portion (3) which discharges air from the hollow body opening and upon application of a lesser

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force permits a vacuum to be formed in the hollow portion, a suction cup (12) located at the first end of the hollow body which leads to the hollow body opening and the hollow portion of the hollow body. Kobler discloses a similar device including a vacuum bleed hole (18) on the hollow body which is in communication with the hollow portion, the vacuum bleed hole located such that a user holding the device can seal the vacuum bleed hole on the hollow body when the hollow body is deformed and a vacuum is formed permitting the suction cup to grasp an object and release the object when the vacuum bleed hole is unsealed.

As to claim 8, the device of each is used with a contact lens.

As to claim 9, the grip portion of the exterior of the hollow body of Cointment is inherently textured such that grasping is facilitated.

6. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 8 above, and further in view of Weil (3,167,079). Weil discloses a deformable portion (10) including a grip portion including a texture defined by a set of channels (as shown). To modify the deformable portion of either one of Kobler or Cointment employing a texture would have been obvious in order to facilitate the gripping of the portion.

7. Claims 15 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willis and Kobler. Claims 15 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willis and Cointment in view of Kobler. Claims 15-22 are

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rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler and Kobler. Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler and Cointment in view of Kobler. The references now employed have been explained individually against a storage container alone and an inserting and handling device alone. To provide the container and device together in combination would have been obvious, as both are disclosed to be employed with contact lens.

As to claims 16 and 20, Thaler discloses a dome-shaped structure (23).

As to claims 17-19, Thaler discloses the deformable portion as an accordion-shaped pleated bellows.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 22 above, and further in view of Raimondi (5,941,583). Raimondi disclose a contact lens handling device including a removable cover (56) To employ a cover to modify the handling device of the combination would have been obvious in view of Raimondi in order to protect the device during non-use.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman", with a long horizontal flourish extending to the right.

Bryon P. Gehman  
Primary Examiner  
Art Unit 3728

BPG